

HOUSE BILL No. 1148

DIGEST OF INTRODUCED BILL

Citations Affected: IC 24-5-23.

Synopsis: Account numbers on receipts. Prohibits: (1) more than the last four digits of a payment card number; or (2) the payment card expiration date; from being printed on any receipt electronically generated in a transaction in which a payment card is used to obtain certain property or services. Provides that the prohibition applies to a person that: (1) accepts payment cards for certain transactions; (2) provides processing software or hardware to enable that person or another person to accept payment cards; or (3) owns or operates an automated teller machine. Specifies dates after which cash registers, automated teller machines, or other machines or devices that electronically print receipts must comply with the prohibition. Allows a cardholder that receives a receipt that displays prohibited information to file a complaint with the consumer protection division of the attorney general's office. Allows the division to file a civil action if the division determines that a violation has occurred. Allows a court hearing the matter to award certain relief.

Effective: Upon passage; July 1, 2006.

Crooks

January 5, 2006, read first time and referred to Committee on Financial Institutions.

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Introduced

Second Regular Session 114th General Assembly (2006)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2005 Regular Session of the General Assembly.

HOUSE BILL No. 1148

A BILL FOR AN ACT to amend the Indiana Code concerning trade regulation.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 24-5-23 IS ADDED TO THE INDIANA CODE AS
2 A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 2006]:

4 **Chapter 23. Payment Card Transaction Receipts**

5 **Sec. 1. As used in this chapter, "cardholder" means a person**
6 **named on the face of a payment card to whom or for whose benefit**
7 **the payment card is issued.**

8 **Sec. 2. As used in this chapter, "payment card" means a card or**
9 **device that:**

10 (1) **is issued to a cardholder; and**

11 (2) **allows the cardholder to obtain, purchase, or receive**
12 **money, goods, property, labor, services, or anything else of**
13 **value. The term includes a credit card, a debit card, a charge**
14 **card, a bank card, or another similar device.**

15 **Sec. 3. As used in this chapter, "person" means a natural**
16 **person, a limited liability company, a corporation, a business trust,**
17 **an estate, a trust, a partnership, an association, a joint venture, a**



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government, a governmental subdivision or agency, a nonprofit entity, or any other legal entity.

Sec. 4. (a) This section applies to a person that:

(1) accepts, as part of a point of sale transaction occurring in Indiana:

(A) a payment card; or

(B) information from a payment card;

in exchange for providing money, goods, property, labor, services, or anything else of value to a cardholder;

(2) enters into a contract for the purpose of providing that person or another person the means of accepting a payment card in a transaction described in subdivision (1), including the provision of processing applications, point of sale terminals, or other necessary software or hardware; or

(3) owns or operates an automated teller machine (as defined in IC 28-15-1-2) or a similar unmanned terminal or device that:

(A) allows a cardholder to perform routine financial transactions; and

(B) is located in Indiana.

(b) This subsection does not apply to a transaction in which the sole means of recording a payment card number is by handwriting or by an imprint or a copy of the payment card. Subject to subsection (c), a person to whom this section applies may not allow:

(1) more than the last four (4) digits of the payment card account number; or

(2) the expiration date of the payment card;

to be printed on any electronically generated receipt in a transaction in which a payment card is used.

(c) Subsection (b) applies:

(1) to any transaction occurring after June 30, 2006, if the:

(A) cash register;

(B) automated teller machine; or

(C) other machine or device;

that electronically prints the receipt for the transaction is first put into use after June 30, 2006; and

(2) to any transaction occurring after December 31, 2006, if the:

(A) cash register;

(B) automated teller machine; or

(C) other machine or device;

that electronically prints the receipt for the transaction is in

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use before July 1, 2006.

Sec. 5. (a) As used in this section, "division" refers to the consumer protection division of the office of the attorney general created by IC 4-6-9-1.

(b) After June 30, 2006, a cardholder that receives a receipt that:

(1) is produced by a device described in section 4(c) of this chapter; and

(2) displays:

(A) more than the last four (4) digits of the payment card account number;

(B) the expiration date of the payment card; or

(C) both items listed under clauses (A) and (B);

may file a complaint with the division not later than ninety (90) days after the date the receipt was issued. The division shall investigate any complaint received under this subsection to determine whether a violation of section 4 of this chapter occurred. If a complaint is filed under this subsection after June 30, 2006, but before January 1, 2007, the division, in determining whether a violation of section 4 of this chapter occurred, shall determine when the device described in section 4(c) of this chapter was first put into use.

(c) If, after an investigation conducted under subsection (b), the division determines that a violation of section 4 of this chapter occurred, the division may file an action on behalf of the state in a circuit or superior court having jurisdiction. An action under this subsection must be filed by the division not later than ninety (90) days after the date the division receives the cardholder's complaint under subsection (b). An action filed under this subsection shall be heard promptly by the court without a jury, and either party may present evidence at the hearing. If, after a hearing under this subsection, the court determines that a violation of section 4 of this chapter occurred, the court may award one (1) or more of the following:

(1) An injunction to enjoin future violations of section 4 of this chapter by any person:

(A) described in section 4(a) of this chapter; and

(B) determined by the court to be partly or wholly responsible for the violation for which an action under this subsection is brought.

(2) A civil penalty, accruing to the state, of not more than:

(A) two hundred fifty dollars (\$250) for the first violation;

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1 and

2 (B) one thousand dollars (\$1,000) for each subsequent
3 violation;

4 found by the court. A civil penalty assessed by a court under
5 this subdivision may be assessed against one (1) or more
6 persons described in section 4(a) of this chapter, in an amount
7 proportionate to the share of each person's responsibility for
8 the violation as determined by the court.

9 (3) The reasonable costs of the division's:

10 (A) investigation under subsection (b); and

11 (B) action under this subsection.

12 (4) If the person filing the complaint under subsection (b)
13 suffers a pecuniary loss as a direct result of any violation of
14 section 4 of this chapter, as determined by the court, damages
15 to that person in an amount that does not exceed the greater
16 of:

17 (A) the person's actual loss; or

18 (B) five hundred dollars (\$500).

19 Damages awarded to a person under this subdivision have
20 priority over any civil penalty imposed under subdivision (2).
21 The court's judgment under this subsection is a final determination
22 that may be appealed in the same manner as other civil actions.

23 Sec. 6. The consumer protection division of the office of the
24 attorney general may adopt rules under IC 4-22-2 to implement
25 this chapter.

26 SECTION 2. [EFFECTIVE UPON PASSAGE] (a) As used in this
27 SECTION, "division" refers to the consumer protection division
28 of the office of the attorney general created by IC 4-6-9-1.

29 (b) Notwithstanding IC 24-5-23-6, as added by this act, the
30 division shall adopt any rules to implement IC 24-5-23, as added by
31 this act, in the same manner as emergency rules are adopted under
32 IC 4-22-2-37.1. Any rule adopted under this SECTION must be
33 adopted not later than June 1, 2006. A rule adopted under this
34 SECTION expires on the earlier of:

35 (1) the date the rule is adopted by the division under
36 IC 4-22-2-24 through IC 4-22-2-36 to implement IC 24-5-23,
37 as added by this act; or

38 (2) July 1, 2007.

39 (c) This SECTION expires July 1, 2007.

40 SECTION 3. An emergency is declared for this act.

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